



COMMONS REGISTRATION ACT 1965

Reference No 276/D/258 to 263 inclusive

In the Matter of Garn and Garnfield,  
Crickhowell, Brecknock BC

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DECISION

These disputes relate to the registration at Entry No 1 in the Land Section and the Entry at No 1 in the Rights Section of Register Unit No CL. 88 in the Register of Common Land maintained by the former Breconshire County Council and are occasioned by Objection No 90 made by Crickhowell RDC and noted in the Register on 9 July 1970, Objection No 11 made by the Duke of Beaufort entered on the Register on 9 July 1970 and Objection No 94 made by W H Pye entered on the Register on 8 December 1970.

I held a hearing for the purpose of inquiring into the disputes at Brecon on 13 July 1977. The hearing was attended by Mr Shellard the Agent for the Duke of Beaufort and Mrs Games chairman of the Crickhowell Community Council and Mr Probert on behalf of the Community Council.

The land in question comprised three parcels: from north to south a small parcel adjoining the Bridge End Inn fronting the River Usk, a parcel owned by the Crickhowell Community Council and a parcel owned by the Duke of Beaufort both fronting the River Usk.

The Entry in the Rights Section is a claim to a Right of Piscary by the Community Council. The Council had no paper title to the Right claimed but Mrs Games and Mr Probert said that the inhabitants of Crickhowell had always fished from the land in question. Not only is it settled law that a fluctuating body of persons cannot acquire by prescription a title to a profit a prendre such as a right to fish but it was accepted that the Duke of Beaufort had sold the fishing rights, except those from the land adjoining the Bridge End Inn and that these rights are now owned by the Crickhowell Anglers Association. In the absence of any evidence that the Community Council has any title to the Rights claimed I must refuse to confirm the Entry No 1 in the Rights Section. In the absence of any valid Entry in the Rights Section the land can only be common land if it is waste of a manor. The land in the ownership of the Duke of Beaufort is occupied and the Duke is in receipt of rent from the occupier, the Community Council is in occupation of the land which it owns and these lands are clearly not waste. As regards the land adjoining the Bridge End Inn, Mr Shellard expressed the view that this land is in the occupation of the owner of the Inn and that the wall which separates it from the rest of that property was erected to prevent flooding. Mr Shellard has an intimate knowledge of the area extending over very many years and in the light of what he told me I am not satisfied that the land adjoining the Bridge End Inn is waste, and I refuse to confirm the Entry in the Land Section.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 28<sup>th</sup> day of July

1977 *A. Settle*

Commons Commissioner